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BERNARD SANDERS, VERMONT,

The Honorable Porter J. Goss, Chairman
The Honorable Jane Harman, Ranking Minority Member
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman and Ms. Harman:

The Bush Administration has belatedly acknowledged what many have known for some time: President Bush made a serious mistake when he informed Congress in the State of the Union address that Iraq was seeking uranium from Africa. Recognizing this mistake was an important first step, but there remain key questions that have not yet been answered.

These unanswered questions fall into four categories. First, what are the details about when the United States received and how it evaluated the forged evidence that Iraq was seeking to obtain "yellowcake" uranium from Niger? We know from statements made by White House spokesman Ari Fleischer last week that "[t]he President's statement was based on the predicate of the yellow cake from Niger." But the accounts about when the United States learned of this evidence, who received it, and how it was evaluated are incomplete and conflicting. To fully evaluate the relevant issues, Congress needs a detailed chronology of how the evidence was handled within the various agencies and the White House.

Second, who was responsible for the repeated attempts by Administration officials to use the bogus evidence? The President's statement in the State of the Union address was by no means the only use of the Niger evidence by Administration officials. To the contrary, there was a concerted effort spanning many months and involving multiple Administration officials to promote the claim that Iraq was seeking to import uranium from Africa. We know that these efforts began in September 2002 and lasted until March 2003, when the International Atomic Energy Agency revealed that the underlying documents were forgeries. And we know that these efforts occurred despite repeated attempts by intelligence officials at the CIA and the State Department to discredit the evidence. Yet we still do not know who was behind this repeated effort to promote the phony evidence.

¹ White House, *Press Briefing with Ari Fleischer* (July 7, 2003).

Third, has the White House attempted to conceal what it knew about the evidence? I have written three letters to President Bush since March 17 asking a simple question: How did the forged evidence make its way into the President's State of the Union address? During this period, Administration officials have given multiple different explanations that we now know were false. Officials have said: (1) "we fell for it";² (2) "no one in our circles knew";³ and (3) "there were also other sources" of intelligence. Adding to these contradictory explanations, the President said yesterday that the CIA raised doubts about the evidence "subsequent to the speech." We need to know whether there was a deliberate attempt by the Administration to mislead members of Congress and the public about White House culpability.

Fourth, why hasn't the President dismissed or otherwise sanctioned the responsible White House officials? The State of the Union address is the most carefully constructed and painstakingly reviewed speech given by a President, and the topic of impending war is the most momentous subject a President can address. The use of forged evidence in such a setting should be inconceivable. CIA Director George Tenet has been singled out for blame, yet we now know he was urging restraint. In contrast, no action is being taken to identify or sanction those within the White House who were pushing for the use of the forged evidence.

Ultimately, I believe there needs to be an independent commission to examine this matter and the larger questions about the use of intelligence on Iraq. The recent revelations have called the credibility of the United States into question around the world. In the long run, a thorough review by a truly independent body will be the best mechanism for upholding our credibility in the eyes of other nations. That is why I joined with over 20 other supporters of the war resolution in introducing H.R. 2625, a bill to establish an Independent Commission on Intelligence about Iraq.

An independent commission, however, will inevitably take months to enact and organize. In the near term, it is essential that the Intelligence Committee hold immediate public hearings on the Niger evidence. In his statement on July 11, Mr. Tenet disclosed extensive details of the CIA's evaluation of information relating to the Niger claims, including quoting at length from the discussion of the evidence in the National Intelligence Estimate. Under these circumstances, there is no longer any reasonable justification for considering this matter in closed proceedings. Nor is there any justification for further delay. Public hearings in the Intelligence Committee to

² Some Evidence on Iraq Called Fake; U.N. Nuclear Inspector Says Documents on Purchases Were Forged, Washington Post (Mar. 8, 2003).

³ Meet the Press, NBC News (June 8, 2003).

⁴ This Week with George Stephanopolous, ABC News (June 8, 2003).

⁵ President Defends Allegation on Iraq, Washington Post (July 15, 2003).

examine the handling of the Niger evidence should commence before the upcoming August recess.

The rest of this letter will explain my views on the important unanswered issues that should be addressed by the Committee in open hearings.

How the United States Received and Evaluated the Niger Evidence

In February 2003, the Bush Administration provided the International Atomic Energy Agency with the evidence supporting the Administration's claim that Iraq sought uranium from Africa. After receiving this evidence, it took the IAEA only a matter of days and basic investigative steps such as a Google search to determine that the documents were forgeries. The IAEA reported its findings to the world on March 7 and, in response to my inquiry, provided a detailed accounting of when it learned of the evidence and how it assessed its credibility.⁶

The Bush Administration, however, has not been equally forthcoming. To the contrary, the few public accounts available have provided only a sketchy and inconsistent description of when the United States received the forged documents and how they were evaluated. Some press accounts indicate the documents were first given to Vice President Cheney's office by the British "via the Italians" in early 2002. Others report that while the CIA had learned of the evidence in late 2001, it did not obtain the actual documents until after the State of the Union address in January 2003. In his statement on July 11, Mr. Tenet said "[t]here was fragmentary intelligence gathered in late 2001 and early 2002 on the allegations," but he did not say specifically what this evidence was or when the United States received the actual documents or copies of them.

The Administration should be asked in a hearing to provide a complete and detailed chronology of when the United States learned about the Niger claims, when it received copies of the actual forged documents, what process it used to evaluate this evidence, and what findings intelligence officials reached. The chronology should cover all relevant agencies, including the CIA, the State Department, and the Department of Defense, as well as the Vice President's office and the White House. These basic facts are a necessary prerequisite to any meaningful investigation.

⁶ Letter from Piet de Klerk, Director, Office of External Relation and Policy Coordination, IAEA, to Rep. Henry A. Waxman (June 20, 2003).

⁷ The Selling of the Iraq War: The First Casualty, New Republic (June 30, 2003).

 $^{^{8}}$ Italy May Have Been Misled by Fake Iraq Arms Papers, U.S. Says, Los Angeles Times (Mar. 15, 2003).

⁹ In Tenet's Words: 'I am Responsible' for Review, New York Times (July 12, 2003).

Who in the Administration Pressed To Use the Forged Evidence

The use of the forged evidence in the President's State of the Union address was not an isolated occurrence. To the contrary, Administration officials repeatedly used the discredited uranium claim in public statements and on-the-record remarks, as well as in background comments to reporters, during the six crucial months between September 2002 and March 2003. This repeated use of the claims occurred even as intelligence experts at the CIA and State Department expressed continual reservations and doubts.

On September 24, the British published an intelligence report often referred to as the "British dossier" on threats posed by Iraq. One of the two major new assertions in the dossier was this statement: "As a result of the intelligence we judge that Iraq has . . . sought significant quantities of uranium from Africa, despite having no active civil nuclear power programme that could require it." As CIA Director George Tenet revealed last week, the CIA "expressed reservations" to the British about including this account in the dossier because of the CIA's doubts about the reporting on this claim. ¹¹

Despite the CIA reservations about the report, the White House embraced the British findings. On September 24, 2002, White House spokesman Ari Fleischer said:

I think it's obvious to say that the United States has close relationships with intelligence communities around the world, particularly in the nations like Britain that are most allied with us. And we often work shoulder to shoulder to help prevent problems from becoming life-threatening and to share information . . . In the case of this report . . . we agree with their findings. ¹²

The British dossier received widespread media coverage that prominently featured the claim that Iraq sought uranium in Africa, including lead stories on television network news and front-page articles in the *New York Times*, *Los Angeles Times*, and the *Washington Post*. For example, *CBS Evening News* reported:

¹⁰ Iraq's Weapons of Mass Destruction: The Assessment of the British Government, 6 (Sept. 24, 2002).

¹¹ In Tenet's Words, supra note 9.

¹² White House, *Press Briefing by Ari Fleischer* (Sept. 24, 2002).

¹³ E.g., NBC Nightly News (Sept. 24, 2002) (lead story); NewsHour with Jim Lehrer, PBS (Sept. 24, 2002) (lead story); Threats and Responses: Indictment: Blair Says Iraqis Could Launch Chemical Warheads in Minutes, New York Times (Sept. 25, 2002) (front page); Blair Spells Out Threats Posed by Iraq Regime, Los Angeles Times (Sept. 25, 2002) (front page);

In his address to the British Parliament, Tony Blair unveiled a lengthy dossier of evidence against Saddam, including his attempts to buy uranium from Africa.... President Bush loved the speech. And why not? The intelligence that went into it was closely coordinated with the White House.¹⁴

White House officials again sought to use the claim in President Bush's October 7, 2002, speech in Cincinnati outlining the threats posed by Iraq. The President delivered this speech three days before Congress voted on the Iraq war resolution. Although the draft prepared by the White House referred to the forged evidence, the CIA raised objections. The references were dropped from the final version of the speech only after Mr. Tenet "argued personally to White House officials, including deputy national security adviser Stephen Hadley, that the allegation should not be used." ¹⁵

On December 19, 2002, the Administration responded to Iraq's December 7, 2002, weapons declaration by releasing a State Department "Fact Sheet" that highlighted the claim that Iraq had sought uranium in Niger. According to the fact sheet, one of eight key omissions and deceptions in Iraq's weapons declaration was that "[t]he Declaration ignores efforts to procure uranium from Niger." The Administration's emphasis on the claim in its response to the Iraqi declaration received widespread media coverage, including coverage on the network news and front-page newspaper stories. To example, *NBC Nightly News* reported:

What could Iraq be hiding? The State Department says today a long and dangerous list. . . . U.S. officials say Iraq . . . attempted to buy uranium from Africa to procure nuclear weapons. 18

Blair: Iraq Can Deploy Quickly; Report Presents New Details on Banned Arms, Washington Post (Sept. 25, 2002) (front page).

¹⁴ CBS Evening News (Sept. 24, 2002).

¹⁵ CIA Got Uranium Reference Cut in Oct., Washington Post (July 13, 2003).

¹⁶ U.S. Department of State, Fact Sheet: Illustrative Examples of Omissions from the Iraqi Declaration to the United Nations Security Council (Dec. 19, 2002).

¹⁷ E.g., Threats and Responses: Report by Iraq, Iraq Arms Report Has Big Omissions, U.S. Officials Say, New York Times (Dec. 13, 2002) (front page); 'Axis' Nations' Nuclear Aims Test US Nuclear Programs, Challenge Bush, Boston Globe (Dec. 15, 2002); U.S. Accuses Iraqi Weapons Report of Failing to Meet U.N.'s Demands, NBC Nightly News (Dec. 19, 2002); U.S. Issues a List of the Shortcomings in Iraqi Arms Declaration, Los Angeles Times (Dec. 20, 2002).

¹⁸ NBC Nightly News (Dec. 19, 2002).

In the days surrounding the President's January 28, 2003, State of the Union address, top Administration officials again emphasized the claim in prominent public remarks. On January 23, 2003, National Security Advisory Condoleezza Rice published an op-ed piece in the *New York Times* arguing that Iraq lied in its December 2002 declaration. Her lead example was: "the declaration fails to account for or explain Iraq's efforts to get uranium from abroad." 19

Similarly, in the opening remarks of his nationally televised press conference on January 29, 2003, Secretary of Defense Donald Rumsfeld stated: "[Saddam Hussein's] regime has the design for a nuclear weapon, was working on several different methods of enriching uranium, and recently was discovered seeking significant quantities of uranium from Africa."²⁰

The most prominent use of the claim was, of course, in the President's January 28, 2003, State of the Union address. In this speech, the President stated: "The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa." As is now clear from Mr. Tenet's statement, this assertion remained in the text even after CIA officials "raised several concerns about the fragmentary nature of the intelligence" underlying the claim. According to the *New York Times*, a National Security Council official named Robert G. Joseph called a CIA official named Alan Foley to ask about inserting a reference to "reports that Iraq was trying to buy hundreds of tons of yellowcake from Niger." According to this account, Mr. Foley clearly expressed the objections of the CIA, including telling Mr. Joseph that "the CIA had told the British that they were not sure that the information was correct."

The State of the Union address was not the last time that Administration officials used or attempted to use the claim about Iraq seeking uranium from Africa. On February 5, 2003, Secretary of State Colin Powell delivered a speech to the United Nations highlighting the threat posed by Iraq. According to press accounts, "[t]he first draft of Powell's speech was written by Cheney's staff and the National Security Council." This draft from the Vice President's staff contained references to the uranium evidence, but as a result of Secretary Powell's review, "[t]he

¹⁹ Condoleezza Rice, Why We Know Iraq Is Lying, New York Times (Jan. 23, 2003).

 $^{^{20}}$ Press Conference with Donald Rumsfeld, General Richard Myers, CNN (Jan. 29, 2003).

²¹ The President, State of the Union Address (Jan. 28, 2003).

²² In Tenet's Words, supra note 9.

²³ CIA Chief Takes Blame in Assertion on Iraqi Uranium, New York Times (July 12, 2003).

²⁴ Truth and Consequences, U.S. News and World Report (June 9, 2003).

bogus Niger documents were dumped."²⁵ Mr. Tenet's July 13 statement is consistent with this account.²⁶

Even after Secretary Powell eliminated the forged evidence from his February 5, 2003, speech, the Administration continued to use it. In a February 20, 2003, broadcast, the *Voice of America* reported that U.S. officials said that Iraq and Niger "signed a secret agreement to resume the shipments" of uranium. The report also stated that, according to U.S. officials, "Iraq and Niger signed an agreement in the summer of 2000 to resume shipments for an additional 500 tons of 'yellowcake.""²⁷

As this chronology illustrates, there was a repeated effort by some in the Administration to use the forged evidence in building the United States' case against Iraq. What is not known, however, is who orchestrated this campaign. On July 13, *Face the Nation* host Bob Schieffer asked Condoleezza Rice to state specifically who had insisted on including the claim in the President's speech that Iraq had sought uranium in Africa.²⁸ Ms. Rice refused to answer the question. The Committee should insist on an answer.

How the Administration Responded to Congressional and Other Inquiries

Since the announcement by the IAEA on March 7, 2003, that the Niger documents were crude forgeries, the Administration has offered a string of inconsistent, contradictory, and evasive explanations for the President's use of the claim in the State of the Union address. This raises an extremely serious question: Has the White House tried to cover up what it knew about forged Niger evidence?

"We fell for it"

After the IAEA announcement in March, the Bush Administration's first explanation for its reliance on this claim was that "we fell for it." This assertion clearly is not true. CIA Director Tenet has now revealed that the CIA and State Department both had their own doubts about this evidence long before the IAEA made its findings public in March. He also reported that the CIA had attempted to discourage Administration officials both inside and outside the

²⁵ Where Are Iraq's WMDs?, Newsweek (June 9, 2003).

²⁶ In Tenet's Words, supra note 9.

²⁷ U.S. Officials: Niger Signed Secret Deal To Resume Uranium Ore Shipments to Iraq, VOA News (Feb. 20, 2003).

²⁸ Face the Nation, CBS News (July 13, 2003).

²⁹ Some Evidence on Iraq Called Fake, supra note 2.

White House from referencing the evidence in public statements because of the serious questions about the accuracy of the reporting.³⁰

"The intelligence community did not know . . . at levels that got to us"

Early last month, National Security Advisor Condoleezza Rice provided another explanation. She claimed unequivocally that no senior White House officials were ever informed about questions about the Niger claim prior to its use in the State of the Union address. She stated that, although officials "in the bowels" of the CIA may have questioned the uranium assertion, "no one in our circles knew that there were doubts and suspicions that this might be a forgery." She also stated that "[t]he intelligence community did not know at that time, or at levels that got to us, that this, that there was serious questions about this report." Yesterday, the President made a similar claim, stating: "Subsequent to the speech, the CIA had some doubts."

Since Ms. Rice's June interviews, these claims have been contradicted repeatedly, including by CIA Director Tenet, who has made it clear that the White House was advised of CIA concerns.³⁴ Indeed, it was disclosed on Sunday that Mr. Tenet "argued personally" to Ms. Rice's deputy, Stephen Hadley, that the uranium claim should not have been included in the President's October 7, 2002, speech in Cincinnati.³⁵

On July 11, 2003, Ms. Rice herself conceded that the CIA raised objections to the Niger claim prior to the State of the Union address.³⁶ According to Ms. Rice, "some specifics about amount and place were taken out" of the speech as a result of these objections.³⁷ Ms. Rice also conceded that the CIA made its doubts about the evidence known over three months prior to the State of the Union address when it had the bogus uranium claim stricken from the President's October 7, 2002, speech.³⁸

³⁰ See In Tenet's Words, supra note 9.

³¹ Meet the Press, NBC News (June 8, 2003).

³² This Week with George Stephanopoulos, ABC News (June 8, 2003).

³³ President Defends Allegation on Iraq, supra note 5.

³⁴ In Tenet's Words, supra note 9.

³⁵ CIA Got Uranium Reference Cut in Oct., supra note 15.

³⁶ Rice Says CIA Cleared Bush's State of the Union Speech, Associated Press (July 11, 2003).

³⁷ *Id*.

 $^{^{38}}$ Id

"Other sources"

Another explanation that has been given by White House officials for making the suspect uranium claims is that there were "other sources" of the evidence. For example, White House spokesman Ari Fleischer stated that "there was additional reporting from the CIA, separate and apart from Niger, naming other countries where they believed it was possible that Saddam was seeking uranium."

Condoleezza Rice made a similar assertion last month, asserting on *This Week with George Stephanopoulos* that "there were also other sources that said that there were, the Iraqis were seeking yellowcake — uranium oxide — from Africa," and that "there were other attempts to get yellowcake from Africa." She restated this explanation on Sunday when she said, "We have reporting that the Iraqis were trying to procure uranium in countries other than Niger, which has been called into question."

But this claim has been directly contradicted by White House Press Secretary Ari Fleischer, who asserted last week that the President's statement was "based on the predicate of the yellow cake from Niger" and that "the President's broader statement was based and predicated on the yellow cake from Niger."

Moreover, White House spokesman Ari Fleischer conceded yesterday that the White House still has no verifiable "other sources," stating, "We don't know if it's true — but nobody, but nobody, can say it is wrong."

CIA Director Tenet has also disputed the "other sources" theory. According to his July 11 statement, CIA officials ultimately concurred that "the text in the speech was factually correct—i.e. that the British government report said that Iraq sought uranium from Africa." This concurrence was not based on the existence of other evidence available to the CIA. The account the State Department provided to me on April 29 is similar. The State Department reported to me that the Administration received information about the uranium allegation from two foreign sources: the British government and a second "Western European ally." According to the State

³⁹ White House, *Press Briefing by Ari Fleischer* (July 14, 2003).

⁴⁰ *This Week, supra* note 32.

⁴¹ Fox News Sunday, Fox News Network (July 13, 2003).

⁴² White House, *supra* note 1.

⁴³ White House, *supra* note 39.

⁴⁴ In Tenet's Words, supra note 9.

Department letter, both sources turned out to be relying on the same information, and both were "subsequently discredited."⁴⁵

Moreover, it is telling that no other evidence was provided to the IAEA by the Administration. The Administration on repeated occasions pledged to cooperate with the international arms inspectors. ⁴⁶ But as the IAEA informed me in a recent letter, the IAEA received only the forged documents from the Administration, not any other evidence. ⁴⁷

"Technically accurate"

The current White House defense is that the President's State of the Union address was "technically accurate" because it cited to a British intelligence report.⁴⁸ But as I wrote to the President on March 17, this in itself is "deliberately misleading":

The statement is worded in a way that suggests it was carefully crafted to be both literally true and deliberately misleading at the same time. The statement itself... may be technically accurate, since this appears to be the British position. But given what the CIA knew at the time, the implication you intended — that there was credible evidence that Iraq sought uranium from Africa — was simply false.⁴⁹

The chronology of shifting White House explanations raises a fundamental question: Has the White House dissembled in order to conceal its culpability? I have written three letters to the President since March 17 asking for an explanation of the President's use of the forged evidence in the State of the Union, as well as one letter to National Security Advisor Condoleezza Rice. Copies of these letters are enclosed. But rather than answer my letters and the questions of others, the White House has issued a series of alternative explanations that we now know are false. Further investigation is needed to assess the motivation and impact of these deliberate actions.

⁴⁵ Letter from Paul V. Kelly, Assistant Secretary of State for Legislative Affairs, to Rep. Henry A. Waxman (Apr. 29, 2003).

⁴⁶ See, e.g., White House Briefing, Federal News Service (Dec. 20, 2002) (in which Mr. Fleischer stated that "It is entirely in the interest of the United States of America for the inspectors to have every tool and resource necessary to help them to be as effective as they can, to do their jobs. And the United States will do that").

⁴⁷ Letter from Piet de Klerk, *supra* note 6.

⁴⁸ State of the Union Mistake; CIA Director George Tenet's Job in Peril, Good Morning America, ABC (July 14, 2003) (quoting Secretary of Defense Donald Rumsfeld).

⁴⁹ Letter from Rep. Henry A. Waxman to President George W. Bush (Mar. 17, 2003).

The Failure To Sanction the Responsible White House Officials

The State of the Union address is the most carefully vetted speech a President gives, and the question of whether to commit our troops to battle is the most serious subject a President can raise. For these reasons, the inclusion of false evidence relating to Iraq in President Bush's January 28, 2003, State of the Union address is a breach of the highest order.

The Administration's response, however, has been to blame the one individual who may have tried hardest to restrain the White House, CIA Director George Tenet. In a matter of a few days, President Bush, ⁵⁰ National Security Advisor Condoleezza Rice, ⁵¹ and White House spokesman Ari Fleischer ⁵² publicly blamed Mr. Tenet for failing to object to the inclusion of the bogus uranium claim in the speech. As Ms. Rice put it:

[H]ad there been even a peep that the agency did not want that sentence in or that George Tenet did not want that sentence in, that the Director of Central Intelligence did not want it in, it would have been gone.⁵³

Contrary to Dr. Rice's version of events, we now know that CIA officials, including Mr. Tenet himself, urged the White House to stop using this claim because of doubts about its accuracy. On Friday, Mr. Tenet issued a statement taking responsibility for the CIA's actions. He acknowledged that the "CIA approved the president's State of the Union address," that he was "responsible for the approval process in my agency," and that the uranium claim "should never have been included." Primarily, Mr. Tenet found fault with his agency's failure to argue more strenuously against White House efforts to insert the claim. As Mr. Tenet noted, this breach was particularly disturbing to him personally because he had succeeded in removing the claim from so many other Administration statements and congressional testimonies.

⁵⁰ White House Blames CIA for Iraq Error in Speech, Washington Post (July 13, 2003) (quoting President Bush defending the allegation by saying it "was cleared by the intelligence services").

⁵¹ Face the Nation, supra note 28.

⁵² Ari Fleischer Holds Regular White House News Briefing, FDCH Political Transcripts (July 14, 2003) (in which Mr. Fleischer is quoted as saying: "the CIA, if they had said, 'Take out the reference to seeking uranium from Africa,' it would have been taken out").

⁵³ Face the Nation, supra note 28.

⁵⁴ In Tenet's Words, supra note 9.

In contrast to the concerted effort to blame Mr. Tenet, no efforts are apparently being undertaken to identify those within the White House who urged the inclusion of the uranium claim. This is simply backwards. While Mr. Tenet may deserve criticism for not resisting harder, surely the greater fault lies with those who urged the use of the unsubstantiated evidence in the first place. It is thus important to investigate who, if anyone, the White House is trying to protect and why more forceful efforts to dismiss or at least sanction the responsible White House officials have not been undertaken.

Conclusion

Several weeks ago, Chairman Goss said the Intelligence Committee's investigation would be limited to what the CIA knew, not how the White House used or misused the intelligence from the CIA. As Mr. Goss said, "I'm not going into what the customer did with the intelligence." ⁵⁵

I don't believe, however, that Congress can take this approach in this instance. It is now abundantly clear that something fundamentally wrong has occurred.

The issues about the Niger hoax raised in this letter should not be allowed to fester. Congress has a constitutional responsibility to oversee the executive branch. Over the longer term, this responsibility can be fulfilled through legislation establishing an independent commission to evaluate the intelligence on Iraq. But in near term, public hearings in your Committee are essential.

As many others have said, the credibility of the United States is now at stake. The American public — and the world community — need to see that our system of government can rise to this challenge.

Sincerely,

Ranking Minority Member

Enclosures (4)

⁵⁵ Republicans Dismiss Questions over Strength of Evidence on Banned Weapons in Iraq, New York Times (June 18, 2003).